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June 21, 2016

VIA EFILE

Associate Chief Judge Gerald Etchingham
Division of Judges
901 Market Street, Suite 300
San Francisco, California 94103-1779

Re: *IGT d/b/a International Gaming Technology*
Case 28-CA-166915, 173256, 174003, and 174526

Dear Judge Etchingham:

We represent IGT d/b/a International Gaming Technology in the above referenced matter. We write to request an adjournment of the hearing currently scheduled for Wednesday, June 29 and July 1 at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard, Suite 2-901, Las Vegas, Nevada, regarding Charge Nos. 173256, 174003, and 174526.

On January 29, 2016, Region 28 issued a Complaint in Charge No. 166915, a discrete case involving the legality of one clause in the Employer's Separation Agreement. A single witness, Julie Doti, who lives in Texas, was subpoena to appear at the hearing for one day. Region 28 made a motion to permit Ms. Doti to attend the hearing via video conferencing, which was denied. On April 8, 2016, the hearing in Case 166915 was adjourned sua sponte by Region 28 until June 29, 2016.

The Union then filed three new Charges (Nos 173256, 174003, and 174526) against the same Employer, although the substance of each of the new Charges was unrelated in any manner to Charge No. 166915.

On May 31, 2016, Region 28 issued an Amended Complaint, adding the extensive discrete allegations of the three new Charges to the original Complaint. The Employer filed its Answer to the Amended Complaint on June 14, 2016. That same day, Administrative Law Judge Lisa Thompson held a pre-hearing conference with the undersigned and Nathan Higley on behalf of Region 28. Now, instead of one day, the hearing was anticipated to last between 3-5 days. Despite questions from Judge Thompson and the undersigned counsel, Mr. Higley refused to disclose which witnesses he was going to subpoena for testimony, or which documents he would be seeking. I emphasized to Judge Thompson that if Region 28 was going to subpoena out of state individuals, or there was going to be a multiple day hearing which was now projected, late notice for arrangements immediately before the Fourth of July holiday weekend would be problematic. Nevertheless, Mr. Higley declined. Judge Thompson acknowledged the

issue, but stated that we would have to wait until Region 28 issued their subpoenas prior to making any adjournment request.

Subsequently, Region 28 opted to serve its subpoenas by mail, not personal service. Upon information and belief, on Friday, June 17, 2016, Shondra Deloach received a letter subpoena from Region 28. Yesterday, on Monday, June 20, 2016, Cindy Hartman, who is not based in Las Vegas, also received a subpoena. Upon further information and belief, another subpoena was issued to Julie Doti in Texas, although it is unknown whether she received it yet. Furthermore, Region 28 issued an overbroad subpoena duces tecum, which was served to the wrong location, and was received by the Company on Friday, June 17. Although not due yet, a petition to revoke the overbroad portions will be filed in a timely manner.¹

An Adjournment of the Hearing Regarding Charges 173256, 174003, and 174526 is Appropriate

As an initial matter, Region 28 failed to give the subpoenaed witnesses proper notice to fly into Las Vegas and appear for multiple days at a hearing. Rule 11778, Service of Subpoenas, provides that Trial Subpoenas must be "served at least 2 weeks prior to the return date at hearing, but, at any rate in sufficient time to allow 5 days after receipt of the subpoena to petition to revoke the subpoena. See Sec. 11782.4." Section 11782.4, which is referenced in the rule, clearly states "that petitions to revoke shall be filed within 5 days from the service (i.e., receipt) of a subpoena." In other words, the 11 or 9 days notice that was provided to Ms. Deloach and Ms. Hartman respectively was insufficient.

Second, and as importantly, even if 14 days technical notice was given, to tell individuals, particularly out-of-state individuals, that they have to change travel plans so close to the fourth of July holiday weekend, is prejudicial, and will cause an unnecessary loss of money to the witnesses to have to change travel plans, and cause unnecessary and unjustifiable disruption. Indeed, should the Region insist on proceeding as scheduled, the cost to them also will be extensive as the witness cost of travel to and from Las Vegas immediately before July 4th is particularly expensive. In this case, upon information and belief, Ms. Deloach is unavailable on June 30 and July 1 due to prescheduled travel plans, and Ms. Doti and Ms. Hartman reside out of state, and have not yet had an opportunity to secure arrangements to be in Las Vegas on June 30 and July 1. Considering that the Answer to this Complaint was filed just one week ago, it is appropriate and well within precedent to grant a short adjournment to a mutually agreeable time with sufficient notice to make proper travel arrangements.

Lastly, the Employer has shown good faith by being ready to litigate Charge No 166915 as previously scheduled. However, it is not prepared to proceed with a 3-5 day consecutive day

¹ A courtesy copy of the subpoenas also was emailed to the undersigned on June 15, 2016. Region 28 did not ask the undersigned to accept service on behalf of the above individuals or otherwise waive actual service on the subject individuals, which the undersigned has not been authorized to do.

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hearing commencing on June 29, 2016 regarding Charges 173256, 174003, and 174526, the Answer to which was just filed seven days ago.

Accordingly, we respectfully seek a short adjournment of the above referenced hearing. Alternatively, we respectfully request that the hearing on June 29 proceed only regarding the allegations contained in Charge 166915, and for a different hearing date to be set regarding the new Charges 173256, 174003, and 174526.

Respectfully submitted,
/s/
Theo E.M. Gould

CC: Division of Judges
Region 28 (via email)